IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 31218 of 2007(N)

PETITIONERS:

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1. P.PRAVEENCHANDRAN, ACCOUNTANT,
   CALICUT CO-OPERATIVE URBAN BANK LTD. NO.1538,
   KALLAI ROAD, KOZHIKODE-673 002.

2. RAJENDRA KUMAR, ACCOUNTANT,
   CALICUT CO-OPERATIVE URBAN BANK LTD. NO.1538,
   KALLAI ROAD, KOZHIKODE-673 002.

3. DHARMARAJAN, ACCOUNTANT,
   CALICUT CO-OPERATIVE URBAN BANK LTD. NO.1538,
   KALLAI ROAD, KOZHIKODE-673 002.

BY ADV. SRI.P.N.MOHANAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE
   SECRETARY TO GOVERNMENT, CO-OPERATION DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM

2. THE CALICUT CO-OP. URBAN BANK LTD.
   NO.1538, KALLAI ROAD, KOZHIKODE-673 002
   REPRESENTED BY ITS GENERAL MANAGER.

BY G.P.SMT.ANU SIVARAMAN FOR R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J

W.P.(C).31218/2007

Dated this the 12th day of November, 2007

ORDER

Rule 185(8)(b) of the KCS Rules provides certain conditions to be satisfied, for granting exemption to individuals, from acquiring the qualification referred to in that provision. There is no power in that Rule to grant exemption from the conditions which are required to be satisfied for the purpose of granting exemption invoking that provision.

2. The petitioner, an employee, of the Calicut Urban Co-operative Bank, therefore, attempted to invoke Rule 181 of the Rules. In terms of Rule 181, the Government have the power to grant exemption to any registered society or class of societies from any of the provisions of the Rules. That power is to grant exemption for the institution as such, i.e., the society or to a class of societies. That rule is not one, whereby the Government can meddle with individual cases of employees. After placing Rule 185 in

the format in which it is, the power to grant exemption in individual cases is made available with the Registrar subject to the conditions imposed by that provision.

3. However, the writ petitioners relies on Ext.P4 whereby the Government have exercised power under Rule 181 in relation to the employer/society and has relaxed the conditions in terms of Rule 185(8)(b). But, the Government made that order as if that relaxation is for the purpose of the beneficiaries who are named in that order. Such an exercise is not, prima facie, conceived in Rule 181. The Government cannot pick and choose between different employees of a co-operative society while making an order of exemption under Rule 181. If the Government have concluded as per Ext.P4 order that a society is entitled to exemption under Rule 181, there is no reason why the benefit of that exemption shall not be available to all the employees of that society.

4. In the light of what is stated above, the learned Government Pleader seeks a short adjournment to place a counter affidavit on record.

Post for admission after three weeks.

THOTTATHIL B. RADHAKRISHNAN
Judge

mrcs